

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

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IN RE: GENERIC PHARMACEUTICALS :
PRICING ANTITRUST LITIGATION : MDL NO. 2724
: 16-MD-2724
:

: HON. CYNTHIA M. RUFE
THIS DOCUMENT RELATES TO: :
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:
Marion Diagnostic Center, LLC et al. v. : Individual Case No: 18-cv-4137
McKesson Corporation et al. :
:
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ORDER

AND NOW, this 23rd day of November 2020, upon consideration of the attached Stipulation, it is hereby **ORDERED** that the Stipulation is **APPROVED** as follows:

1. Marion's Second Amended Complaint is **DISMISSED WITH PREJUDICE**;
 2. Marion expressly waives the right to bring any other action either in its own name or in a representative capacity (*i.e.*, as a class member), in any court, asserting the claims dismissed by this stipulation;
 3. Marion's dismissal does not waive any rights Marion may have to participate in a settlement or judgment of any other action in this MDL as a class member, subject to the terms and conditions of such settlement or judgment;
 4. All pending motions in this case, including Marion's motion for leave to amend, are **DISMISSED AS MOOT**;
 5. All parties will bear their own costs; and
 6. The Clerk of Court is directed to **CLOSE** Civil Action No. 18-4137.
- It is so **ORDERED**.

BY THE COURT:

/s/ Cynthia M. Rufe

CYNTHIA M. RUFE, J.

WHEREAS, on April 1, 2019, Marion filed a Second Amended Complaint (ECF No. 68) against McKesson and the Manufacturer Defendants, on behalf of itself and the same putative class;

WHEREAS, on June 26, 2019, this Court dismissed all counts of Marion's Second Amended Complaint as against McKesson (ECF No. 113);

WHEREAS, on August 15, 2019, this Court denied the Manufacturer Defendants' motion to dismiss Marion's overarching conspiracy claims (ECF No. 116);

WHEREAS, on August 28, 2020, Marion moved for leave to amend its complaint (ECF No. 128), and attached a proposed Third Amended Complaint that asserted claims against McKesson, the Manufacturer Defendants (except Emcure Pharmaceuticals, Inc.), and other manufacturers of generic drugs, on behalf of itself and the same putative class;

WHEREAS, the Indirect Reseller Plaintiffs have filed in this MDL a class action against McKesson, other distributors of generic drugs, several manufacturers of generic drugs, and several individuals: *Reliable Pharmacy et al. v. Actavis Holdco US, Inc., et al.*, No. 19-cv-6044 (E.D. Pa.);

WHEREAS, the operative complaint in *Reliable Pharmacy* includes claims on behalf of a putative class of "All dispensers of drugs (including hospitals and independent pharmacies), in the United States and its territories, that purchased the generic Drugs at Issue directly from distributor Defendants," including McKesson (*Reliable Pharmacy* ECF No. 61 ¶ 739);

WHEREAS, a motion to dismiss is pending in *Reliable Pharmacy*;

WHEREAS, on September 3, 2020, Marion entered into a stipulation with McKesson to stay briefing on Marion's motion for leave to amend, pending a decision on the motion to dismiss in *Reliable Pharmacy*, and that stipulation was entered as an order on September 9, 2020 (ECF No. 129);

WHEREAS, due to the filing of *Reliable Pharmacy*, Marion is no longer the only plaintiff in this MDL asserting claims based on direct purchases from McKesson; and

WHEREAS, Marion no longer desires to pursue its claims itself due to the existence of a putative class of which it believes it is a member;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and among the undersigned counsel, on behalf of their respective clients, as follows:

1. Marion's Second Amended Complaint is dismissed with prejudice;
2. Marion expressly waives the right to bring any other action either in its own name or in a representative capacity (*i.e.*, as a class member), in any court, asserting the claims dismissed by this stipulation;
3. Marion's dismissal does not waive any rights Marion may have to participate in a settlement or judgment of any other action in this MDL as a class member, subject to the terms and conditions of such settlement or judgment;
4. All pending motions in this case, including Marion's motion for leave to amend, are moot; and
5. All parties will bear their own costs.

IT IS SO STIPULATED.

Dated: November 19, 2020

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